

# Corporation tax and income tax: changes to rules for manufactured payments

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## Who is likely to be affected?

Companies and others that enter into stock loans and repos of shares and securities and that pay and receive manufactured payments.

## General description of the measure

The measure will simplify the rules for taxing and relieving manufactured payments. For manufactured overseas dividends (MODs), the requirement to deduct income tax from payments and entitlement to double taxation relief (DTR) on receipts will be abolished.

## Policy objective

Most manufactured payments are made and received by banks and other financial traders, and would fall to be taxed as ordinary trading expenses and receipts in the absence of detailed rules. Simplifying the rules for taxing and relieving payments recognises that the majority of the current rules are no longer necessary. As the complexity of these rules has given rise to avoidance schemes, simplifying them will also reduce avoidance opportunities. The measure supports the Government's objective of promoting fairness in the tax system.

## Background to the measure

A written ministerial statement on 15 September 2011 announced legislation (enacted in section 22 Finance Act 2012) to block the latest in a series of avoidance schemes involving manufactured overseas dividends. At the same time it was announced that a consultation document would be issued after Budget 2012 on proposals to make wider changes to the tax rules on manufactured payments as part of the programme of reviewing High Risk Areas of the tax system.

The consultation document *Proposed changes to tax rules on manufactured payments* was issued on 27 March 2012, with a closing date for comments of 22 June 2012.

Following the responses to the consultation (a summary of responses was issued on 11 December 2012), the Government is legislating all the changes proposed in the consultation document, with a commencement date of 1 January 2014.

## Detailed proposal

### Operative date

The new rules will apply to manufactured payments that are representative of dividends or interest paid on or after 1 January 2014.

### Current law

Manufactured payments are payments representative of dividends and interest on shares and securities that are paid under contracts or other arrangements for their transfer. Manufactured payments are routinely paid in the financial markets under stock lending or repo transactions. A manufactured payment is a compensation payment made by the temporary holder of the shares or securities to the original owner to reflect the fact that the original owner does not receive the real dividend or interest. The rules regarding taxing and relieving manufactured payments are found in the following legislation:

Corporation tax: the rules for taxing and relieving manufactured dividends are in Part 17 of the Corporation Tax Act 2010.

Income tax: the rules for taxing and relieving manufactured payments are in Chapters 1-3 of Part 11 of the Income Tax Act 2007.

Deduction of tax from payments of MODs: the current rules for both companies and income tax payers are at sections 922 to 925F Income Tax Act 2007 and in Regulations, in particular the Income Tax (Manufactured Overseas Dividends) Regulations 1993 (SI 1993/2004).

## Proposed revisions

Legislation will be introduced in Finance Bill 2013 to make the following changes:

Corporation tax: there will be no special rules for taxing and relieving manufactured dividends paid and received by financial traders. For non-traders, receipts of manufactured dividends will be treated as the real dividends of which they are representative, and payments of manufactured dividends will not be deductible. No changes are being made to the rules for payments representative of interest.

Income tax: the recipient of a manufactured payment will be treated as receiving the real dividend or interest of which the payment is representative. A payer of a manufactured payment will obtain a deduction for the payment only if it is made for the purposes of a trade.

Deduction of tax from payments of MODs: As a result of the abolition of the rules requiring deduction of tax from MODs the recipient will lose any corresponding entitlement to DTR. This will not affect any entitlement arising where foreign tax has actually been deducted from the MOD.

## Summary of impacts

| Exchequer impact (£m)   | 2012-13   | 2013-14    | 2014-15    | 2015-16    | 2016-17    | 2017-18    |
|---|---|------------|------------|------------|------------|------------|
|   | -   | negligible | negligible | negligible | negligible | negligible |
|   | This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013. This measure supports the Exchequer in its commitment to protect revenue.   |            |            |            |            |            |
| <b>Economic impact</b>  | The measure is not expected to have any significant economic impacts.   |            |            |            |            |            |
| <b>Impact on individuals and households</b>                     | The proposed legislation will not impact individuals and households as it affects only large companies and financial institutions that enter into repo and stock lending transactions.  |            |            |            |            |            |
| <b>Equalities impacts</b>                                       | The proposed legislation is not expected to have any impact on any protected equality group.  |            |            |            |            |            |
| <b>Impact on business including civil society organisations</b> | <p>There are approximately 100 businesses that enter into or administer stock loans and repos of shares and securities where there is a payment and/or receipt of a manufactured dividend.</p> <p>There will be a negligible but beneficial reduction in ongoing administrative burden upon businesses as they will no longer be required to submit form SX1 to HM Revenue &amp; Customs. They will face negligible one-off costs in familiarising themselves with the change in legislation.</p> <p>This measure is expected to have no impact on civil society organisations.</p> |            |            |            |            |            |

|  |   |
|--|---|
| <b>Operational impact (£m) (HMRC or other)</b> | No operational impact is expected.                                |
| <b>Other impacts</b>                           | Other impacts have been considered and none have been identified. |

### **Monitoring and evaluation**

The measure will be kept under review through regular communication with affected taxpayer groups.

### **Further advice**

If you have any questions about this change, please contact Geoff Heaton on 020 7147 2577 (email: [geoff.heaton@hmrc.gsi.gov.uk](mailto:geoff.heaton@hmrc.gsi.gov.uk)) or Chris Murrucane on 020 7147 2818 (email: [chris.murrucane@hmrc.gsi.gov.uk](mailto:chris.murrucane@hmrc.gsi.gov.uk)).

## **1 Manufactured payments**

- (1) Schedule 1 contains provision for, and in connection with, the application of the Taxes Acts to manufactured payment relationships and payments representative of dividends and interest.
- (2) In Schedule 1 –
  - (a) the amendments made by Parts 1 and 2 have effect in relation to any payment representative of a dividend or interest which is made on or after 1 January 2014, and
  - (b) the amendments made by Part 3 come into force on that date.

## SCHEDULE 1

Section 1

## MANUFACTURED PAYMENTS

## PART 1

## INCOME TAX

1 Before Part 11A of ITA 2007 insert –

**“PART 11ZA**

## MANUFACTURED PAYMENTS

**614ZA Overview of Part**

This Part deals with the application of the Income Tax Acts to manufactured payment relationships and payments representative of dividends or interest.

**614ZB Key definitions**

- (1) For the purposes of the Income Tax Acts a person has a manufactured payment relationship if conditions A to C are met.
- (2) Condition A is that under any arrangements –
  - (a) an amount is payable by or to the person, or
  - (b) any other benefit is given by or to the person (including the release of the whole or part of any liability to pay an amount).
- (3) Condition B is that the arrangements relate to the transfer of securities.
- (4) Condition C is that the amount or value of the other benefit –
  - (a) is representative of a dividend or interest on the securities, or
  - (b) will fall to be treated as representative of such a dividend or interest when it is paid or given.
- (5) In subsection (2) the reference to an amount being payable, or other benefit being given, by the person includes a reference to an amount being payable, or other benefit being given, by another person on behalf of the person in question.
- (6) In this Part –
  - “manufactured payment”, in relation to a manufactured payment relationship, means an amount, or the value of a benefit, within subsection (2), and
  - “securities” means –
    - (a) shares in a company, and
    - (b) loan stock or any similar security (whether the security is of the government of the United Kingdom,

any other government, any public or local authority in the United Kingdom or elsewhere, or any other company or body).

**614ZC Treatment of payer of manufactured payment**

- (1) This section applies where a person has a manufactured payment relationship under which a manufactured payment is paid by or on behalf of the person.
- (2) No deduction is allowed in respect of the manufactured payment in calculating any profits or other income of the person for income tax purposes (subject to subsection (3)).
- (3) Subsection (2) does not apply in relation to the person so far as the manufactured payment is brought into account under Part 2 of ITTOIA 2005 in calculating the profits of a trade carried on by the person.
- (4) But nothing in subsection (3) affects the question whether (apart from that provision) a deduction in calculating the profits of a trade carried on by the person is allowed.

**614ZD Treatment of recipient of manufactured payment**

- (1) Subsection (2) applies if a person has a manufactured payment relationship under which a manufactured payment is payable to the person.
- (2) For the purposes of the charge to income tax on the person's income, the Income Tax Acts apply to the person as if the manufactured payment were a dividend or interest on the securities (as the case may require).
- (3) Subsection (2) is subject to subsections (4) to (6).
- (4) Subsection (2) does not apply in relation to the person so far as the manufactured payment is brought into account under Part 2 of ITTOIA 2005 in calculating the profits of a trade carried on by the person.
- (5) Subsection (2) does not apply in relation to the person for the purposes of determining entitlement to double taxation relief in respect of any dividend or interest.
- (6) In a case in which the manufactured payment is treated as a dividend by virtue of subsection (2), the person is not entitled to a tax credit under Chapter 3 of Part 4 of ITTOIA 2005 (tax credits for certain recipients of distributions) in respect of the dividend.
- (7) For the purposes of this section "double taxation relief" means any relief given under or as a result of Part 2 of TIOPA 2010."

PART 2

CORPORATION TAX

**“PART 17A**

## MANUFACTURED DIVIDENDS

**815ZA Overview of Part**

This Part deals with the application of the Corporation Tax Acts to manufactured dividend relationships and payments representative of dividends.

**815ZB Key definitions**

- (1) For the purposes of the Corporation Tax Acts a company has a manufactured dividend relationship if conditions A to C are met.
- (2) Condition A is that under any arrangements –
  - (a) an amount is payable by or to the company, or
  - (b) any other benefit is given by or to the company (including the release of the whole or part of any liability to pay an amount).
- (3) Condition B is that the arrangements relate to the transfer of shares in a company.
- (4) Condition C is that the amount or value of the other benefit –
  - (a) is representative of a dividend on the shares, or
  - (b) will fall to be treated as representative of such a dividend when it is paid or given.
- (5) In subsection (2) the reference to an amount being payable, or other benefit being given, by the company includes a reference to an amount being payable, or other benefit being given, by another person on behalf of the company.
- (6) In this Part –
  - “manufactured dividend”, in relation to a manufactured dividend relationship, means an amount, or the value of a benefit, within subsection (2), and
  - “the real dividend” means the dividend mentioned in subsection (4)(a).

**815ZC Treatment of payer of manufactured dividend**

- (1) This section applies where a company has a manufactured dividend relationship under which a manufactured dividend is paid by or on behalf of the company.
- (2) No deduction in calculating income for corporation tax purposes is allowed in respect of the manufactured dividend (subject to subsections (3) to (5)).
- (3) Subsection (2) does not apply in relation to the company so far as the manufactured dividend is brought into account under Part 3 of CTA 2009 in calculating the profits of a trade carried on by the company.
- (4) Subsection (5) applies if –
  - (a) the manufactured dividend relates to investment business which the company has,

- (b) the company received the real dividend in the accounting period, and
  - (c) the real dividend is taxed by virtue of section 548(5) (recipients of distributions from REITs).
- (5) The manufactured dividend is to be treated as expenses of management of the company’s investment business for the accounting period for the purposes of Chapter 2 of Part 16 of CTA 2009.
- (6) Nothing in subsection (3) affects the question whether (apart from that provision) a deduction in calculating the profits of a trade carried on by the company is allowed.
- (7) The references in subsection (4) to the real dividend include references to a manufactured dividend which is treated as a real dividend by virtue of section 815ZD(2).

#### **815ZD Treatment of recipient of manufactured dividend**

- (1) Subsection (2) applies if a company has a manufactured dividend relationship under which a manufactured dividend is payable to it.
- (2) For the purposes of the charge to corporation tax on the income of the company, the Corporation Tax Acts apply to the company, and any company claiming title through or under the company, as if the manufactured dividend were a dividend on the shares.
- (3) Subsection (2) is subject to subsections (4) to (8).
- (4) Subsection (2) does not apply in relation to a company so far as the manufactured dividend is brought into account under Part 3 of CTA 2009 in calculating the profits of a trade carried on by the company.
- (5) Subsection (2) does not apply in relation to a company for the purposes of determining entitlement to double taxation relief in respect of any dividend.
- (6) Part 9A of CTA 2009 (company distributions), in its application in relation to a manufactured dividend as a result of subsection (2), has effect with the modification in subsection (7).
- (7) The modification is that –
  - (a) references in that Part to the payer are to be treated as references to the company that pays the real dividend, and
  - (b) the definition of “the payer” in section 931T is to be treated as omitted.
- (8) The company to which the manufactured dividend is payable is not entitled to a tax credit under section 1109 (tax credits for certain recipients of exempt qualifying distributions) in respect of the dividend.
- (9) For the purposes of subsection (5) “double taxation relief” means any relief given under or as a result of Part 2 of TIOPA 2010.
- (10) This section has effect regardless of section 358 of CTA 2009 (exclusion of credits on release of connected companies debts) or any



other provision of Part 5 of that Act (loan relationships) which prevents a credit from being brought into account.”

### PART 3

#### CONSEQUENTIAL ETC AMENDMENTS

#### *Introductory*

- 3 The following amendments are in consequence of, or otherwise connected with, the amendments made by Parts 1 and 2.

#### *TCGA 1992*

- 4 TCGA 1992 is amended as follows.
- 5 In section 263B (stock lending arrangements) for subsection (7) substitute –
- “(7) In this section “securities” has the meaning given by section 263AA.”
- 6 Omit section 263D (gains accruing to persons paying manufactured dividends).
- 7 In section 263F (power to modify repo provisions: non-standard repo cases) –
- (a) in subsection (1) –
- (i) at the end of paragraph (c) insert “or”, and
- (ii) omit paragraph (d) (and the word “or” at the end of it), and
- (b) in subsection (2) omit “or 263D”.
- 8 In section 263G (power to modify repo provisions: redemption arrangements) –
- (a) in subsection (1) omit paragraph (d) (but not the word “or” at the end of it), and
- (b) in subsection (2) omit “or 263D”.
- 9 In section 263H (sections 263F and 263G: supplementary provisions) in subsection (3)(b) omit “or 263D”.
- 10 (1) Section 263I (powers about manufactured overseas dividend) is amended as follows.
- (2) In subsection (1) for paragraphs (a) and (b) substitute –
- “(a) pays or receives an amount (a “manufactured overseas dividend”) which is representative of an overseas dividend on overseas securities where the payment or receipt is required to be made under an arrangement for the transfer of the securities, or
- (b) is treated as doing so for any purposes of the Taxes Acts.”
- (3) For subsection (6) substitute –
- “(6) In this section –
- (a) “overseas securities” means shares, stock or other securities issued by –

- (i) a government, local authority or other public authority of a territory outside the United Kingdom, or
- (ii) another body of persons not resident in the United Kingdom,
- (b) “overseas securities” includes shares in a company which is not resident in the United Kingdom,
- (c) “overseas dividend” means any interest, dividend or other annual payment payable in respect of overseas securities, and
- (d) “securities” includes loan stock or any similar security.”

#### FA 2004

- 11 In Schedule 24 to FA 2004 (manufactured dividends) omit paragraph 3(1) and (3).

#### ITTOIA 2005

- 12 ITTOIA 2005 is amended as follows.
- 13 In section 397(6) (list of provisions to which the section is subject) for the words from “section 592” to “owner under repo,” substitute –  
“section 614ZD(6) of ITA 2007.”
- 14 In section 397A (tax credit for distributions of non-UK resident companies) –
- (a) in subsection (6) for the words from “section 592” to the end substitute –  
“section 614ZD(6) of ITA 2007.”, and
  - (b) omit subsection (8).
- 15 Omit section 397B (tax credits under section 397A).

#### ITA 2007

- 16 ITA 2007 is amended as follows.
- 17 Omit the following provisions (which deal with manufactured payments and repos) –
- (a) sections 565 to 595,
  - (b) section 596(1) to (4), and
  - (c) section 606(8).
- 18 In section 647 (makers of manufactured payments) for subsection (6) substitute –
- “(6) In this section “manufactured payments contract” means a contract under which –
  - (a) the seller is required to pay another person an amount which is representative of a periodical payment of interest on UK securities under an arrangement between them for the transfer of the securities, or
  - (b) the seller is required to pay another person an amount which is representative of an overseas dividend on overseas

securities under an arrangement between them for the transfer of the securities.

- (7) In this section –
- (a) “overseas securities” means shares, stock or other securities issued by –
    - (i) a government, local authority or other public authority of a territory outside the United Kingdom, or
    - (ii) another non-UK resident body of persons, and includes shares in a non-UK resident company,
  - (b) “overseas dividend” means any interest, dividend or other annual payment payable in respect of overseas securities, and
  - (c) “UK securities” means securities of –
    - (i) the government of the United Kingdom,
    - (ii) a local authority in the United Kingdom,
    - (iii) another public authority in the United Kingdom, or
    - (iv) a UK resident company or other UK resident body, but does not include shares in a UK resident company.”

19 In section 658 (powers to modify: supplementary) for subsection (5) substitute –

- “(5) Subsections (6) to (10) apply for the purposes of sections 656 and 657 and this section.
- (6) “UK shares” means shares in a UK resident company.
- (7) “UK securities” means securities of –
  - (a) the government of the United Kingdom,
  - (b) a local authority in the United Kingdom,
  - (c) another public authority in the United Kingdom, or
  - (d) a UK resident company or other UK resident body.
- (8) But “UK securities” does not include UK shares.
- (9) “Overseas securities” means shares, stock or other securities issued by –
  - (a) a government, local authority or other public authority of a territory outside the United Kingdom, or
  - (b) another non-UK resident body of persons.
- (10) “Overseas securities” includes shares in a non-UK resident company.”

20 In section 918(1) (manufactured dividends on UK shares: REITs) for paragraph (a) substitute –

- “(a) a person pays a manufactured payment as mentioned in section 614ZC(1) and the amount payable is representative of a dividend (a “manufactured dividend”), and”.

21 In section 919 (manufactured interest on UK securities) –

- (a) for subsection (1) substitute –
  - “(1) This section applies if –

- (a) a person pays a manufactured payment as mentioned in section 614ZC(1),
    - (b) the amount payable is representative of interest on UK securities (“manufactured interest”), and
    - (c) the person –
      - (i) is UK resident, or
      - (ii) pays the manufactured interest in the course of a trade carried on in the United Kingdom through a branch or agency.”,
  - (b) in subsection (4) omit the words from “section 583” to “special cases)”, and
  - (c) after subsection (5) insert –
    - “(6) In subsection (1) “UK securities” means securities of –
      - (a) the government of the United Kingdom,
      - (b) a local authority in the United Kingdom,
      - (c) another public authority in the United Kingdom, or
      - (d) a UK resident company or other UK resident body.
    - (7) But “UK securities” does not include shares in a UK resident company.
    - (8) In this section “securities” includes loan stock or any similar security.”
- 22 Omit section 920 (foreign payers of manufactured interest: the reverse charge).
- 23 In section 921 (cases where interest on underlying securities paid gross) in subsection (3) for the words from ““securities”” to the end substitute ““manufactured interest” has the same meaning as in section 919.”
- 24 Omit sections 922 to 925 (manufactured overseas dividends).
- 25 In section 925A(2) (creditor repos) for “to 925” substitute “, 919 and 921”.
- 26 Omit section 925B (debtor repos).
- 27 In section 925C (actual payments ignored) –
  - (a) omit “or section 925B(2)”, and
  - (b) for “to 925” substitute “, 919 and 921”.
- 28 In section 926 (interpretation of Chapter 9 of Part 15) omit subsections (1) and (1A).
- 29 In Schedule 1 (minor and consequential amendments) omit paragraph 335(1) to (4) and (6) to (8).
- 30 In Schedule 2 (transitionals and savings) omit paragraphs 108 to 111 (and the headings “Part 12”, “Manufactured payments and repos” and “Tax credits: stock lending arrangements and repos” immediately preceding paragraph 108).
- 31 In Schedule 4 (index of defined expressions) omit the entries for –
  - “buying back securities, in the context of a repo (in Part 11)”,
  - “company UK REIT (in Chapter 2 of Part 11)”,
  - “gross amount (in Chapter 2 of Part 11)”,

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“group (in Chapter 2 of Part 11)”,  
“group UK REIT (in Chapter 2 of Part 11)”,  
“manufactured dividend (in Chapter 2 of Part 11)”,  
“manufactured dividend (in Chapter 3 of Part 11)”,  
“manufactured interest (in Chapter 2 of Part 11)”,  
“manufactured overseas dividend (in Chapter 2 of Part 11)”,  
“overseas dividend (in Part 11)”,  
“overseas dividend (in Chapter 9 of Part 15)”,  
“overseas securities (in Part 11)”,  
“overseas tax (in Chapter 2 of Part 11)”,  
“overseas tax (in Chapter 9 of Part 15)”,  
“overseas tax credit (in Chapter 2 of Part 11)”,  
“prescribed (in Chapter 2 of Part 11)”,  
“principal company (in Chapter 2 of Part 11)”,  
“principal company (in Chapter 9 of Part 15)”,  
“property rental business (in Chapter 2 of Part 11)”,  
“property rental business (in Chapter 9 of Part 15)”,  
“related agreements (in Part 11)”,  
“relevant withholding tax (in Chapter 2 of Part 11)”,  
“repo (in Part 11)”,  
“the rules about manufactured payments (in Chapter 4 of Part 11)”,  
“stock lending arrangement (in Part 11)”,  
“trade carried on through a branch or agency (in Chapter 2 of Part 11)”,  
“transfer (in Chapter 2 of Part 11)”,  
“UK securities (in Part 11)”, and  
“UK shares (in Part 11)”.

#### *FA 2008*

- 32 (1) FA 2008 is amended as follows.
- (2) In Schedule 12 (tax credit for certain foreign distributions) omit paragraphs 26, 27(2)(a) and (c) and (3), 28(2)(a) and (c) and (3), 29(2)(a), (c)(i) and (d) and (3) and 30.
- (3) In Schedule 23 (manufactured payments: anti avoidance) omit paragraphs 1 to 4, 6, 7 and 9 to 11.

#### *CTA 2009*

- 33 CTA 2009 is amended as follows.
- 34 In section 539 (introduction to Chapter about manufactured interest) omit subsection (7).
- 35 In section 540(3) (manufactured interest treated as interest under loan relationship) omit “and to section 799 of CTA 2010”.
- 36 In section 550 (which makes provision about the effect of the sale of securities on a borrower) –
- (a) in subsection (4) for “(6)” substitute “(5C)”,
  - (b) after subsection (5A) insert –

- “(5B) Nothing in subsection (3) entitles the borrower to double taxation relief in respect of any income payable in respect of overseas securities.
  - (5C) But nothing in subsection (3) affects the entitlement of the borrower to double taxation relief in respect of any overseas tax deducted from any amount representative of income payable in respect of overseas securities.
  - (5D) In subsection (5C) “overseas tax” means tax under the law of a territory outside the United Kingdom.”, and
  - (c) omit subsection (6).
- 37 In section 1221(1) (amounts treated as expenses of management) for paragraph (i) substitute –  
“(i) section 815ZC(5) of CTA 2010 (treatment of payer of manufactured dividend).”.
- 38 In section 1248 (expenses in connection with arrangements for securing a tax advantage) –  
(a) omit subsection (3), and  
(b) in subsection (5) omit the definition of “relevant tax relief”.

#### FA 2009

- 39 In Schedule 19 to FA 2009 (income tax credits for foreign distributions) omit paragraphs 4 and 13(b).

#### CTA 2010

- 40 CTA 2010 is amended as follows.
- 41 Omit Part 17 (manufactured payments and repos).
- 42 (1) Section 1109(5) (provisions to which section 1109 is subject) is amended as follows.
- (2) Omit paragraphs (a) to (c) (and the word “and” at the end of paragraph (c)).
  - (3) Immediately before subsection (5)(d) insert –  
“(ca) section 815ZD (no tax credits for recipient of manufactured dividend), and”.
- 43 In Schedule 1 (minor and consequential amendments) omit paragraphs 259, 537, 538, 539(b) and (c), 635, 636 and 689(a) and (b)(i).
- 44 In Schedule 2 (transitionals and savings) omit Part 17 (manufactured payments and repos).
- 45 In Schedule 4 (index of defined expressions) omit the entries for –  
“creditor quasi-repo (in Chapter 5 of Part 17)”,  
“creditor repo (in Chapter 5 of Part 17)”,  
“debtor quasi-repo (in Chapter 5 of Part 17)”,  
“debtor repo (in Chapter 5 of Part 17)”,  
“manufactured dividend (in Part 17)”,  
“manufactured overseas dividend (in Part 17)”,  
“overseas dividend (in Part 17)”,

“overseas securities (in Part 17)”,  
“overseas tax (in Part 17)”,  
“prescribed (in Chapter 4 of Part 17)”,  
“stock lending arrangement (in Chapter 5 of Part 17)”, and  
“UK shares (in Part 17)”.

#### *TIOPA 2010*

- 46 (1) TIOPA 2010 is amended as follows.
- (2) In section 85A(4) (schemes involving deemed foreign tax), omit paragraph (b) of the definition of “real foreign tax”.
  - (3) In Schedule 7 (miscellaneous relocations) omit paragraph 113.
  - (4) In Schedule 8 (minor and consequential amendments) omit paragraph 82.

#### *FA 2011*

- 47 In Schedule 13 to FA 2011 (profits of foreign permanent establishments) omit paragraphs 22 to 24.

#### *FA 2012*

- 48 (1) FA 2012 is amended as follows.
- (2) Omit section 22 (treatment of the receipt of manufactured overseas dividends).
  - (3) In section 78(3) (amounts which are deemed BLAGAB management expense for accounting period) omit the words from “section 783(6)” to the end.
  - (4) In Schedule 16 (minor and consequential amendments), omit paragraphs 220 to 223.

**EXPLANATORY NOTE**

**MANUFACTURED PAYMENTS**

**SUMMARY**

1. This Schedule simplifies the tax treatment of manufactured dividends for corporation tax purposes, and of all manufactured payments for Income Tax purposes, and repeals the detailed rules setting out the current tax treatment of manufactured dividends and repos in Part 17 of the Corporation Tax Act 2010 (CTA 2010) and of manufactured payments and repos in Chapters 1-3 of Part 11 of the Income Tax Act 2007 (ITA 2007).

**DETAILS OF THE SCHEDULE**

2. Paragraph (1) introduces a new Part 11ZA into ITA 2007, comprising sections 614ZA to 614ZD.
3. Section 614ZA explains that Part 11ZA deals with the application of the Income Tax Acts to manufactured payment relationships and payments which represent dividends or interest.
4. Section 614ZB defines the terms “manufactured payment relationship”, “manufactured payment” and “securities”.
5. Subsection (1) provides that for the purposes of the Income Tax Acts a person has a manufactured payment relationship if conditions A to C are met.
6. Subsection (2) gives Condition A. It provides that Condition A is that under any arrangements an amount is payable by or to a person, or any other benefit is given by or to the person, including the release from a liability to pay an amount.
7. Subsection (3) sets out Condition B. Condition B is that the arrangements relate to the transfer of securities.
8. Subsection (4) sets out Condition C, which is that the amount or value of the other benefit referred to in Condition A is, or will be treated as, representative of a dividend or interest on the securities.
9. Subsection (5) provides that in subsection (2), the reference to an amount being payable or other benefit being given by the person includes a reference to an amount being payable, or other benefit being given by another person on behalf of that person.



10. Subsection (6) defines “manufactured payment” for the new Part 11ZA, as an amount, or the value of a benefit, within subsection (2). It also defines securities for the purposes of that part, providing that “securities” means shares in a company and loan stock or any similar security.
11. Section 614ZC sets out the tax treatment of the payer of a manufactured payment.
12. Subsection (1) explains that section 614ZC applies where a person has a manufactured payment relationship under which a manufactured payment is paid by or on behalf of the person.
13. Subsection (2) provides that no income deduction is allowed in respect of the manufactured payment, subject to subsection(3).
14. Subsection (3) provides that subsection(2) does not apply in relation to a company so far as the manufactured payment is brought into account in calculating the profits of a trade carried on by the person.
15. Section 614ZD sets out the treatment of the recipient of a manufactured payment.
16. Subsection (1) provides that subsection(2) applies if a person has a manufactured payment relationship under which a manufactured payment is payable to that person.
17. Subsections (2) and (3) provide that for the purposes of the charge to income tax on the income of that person, the Income Tax Acts apply to the person as if the manufactured payment were a dividend or interest on the securities, subject to subsections (4) to (7).
18. Subsection (4) provides that subsection(2) does not apply to the person mentioned in that section as far as the manufactured payment is brought into account in calculating the profits of a trade carried on by that person.
19. Subsection (5) provides that subsection(2) does not apply in relation to the person mentioned in that section for the purposes of double taxation relief (DTR) in respect of any dividend or interest.
20. Subsection (6) provides that where the manufactured payment is treated as a dividend under subsection(2), the person mentioned in that subsection is not entitled to a tax credit under Chapter 3 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005), in respect of the dividend.
21. Subsection (7) defines double taxation relief, for the purposes of the section as any relief given under or as a result of Part 2 of the

Taxation (International and Other Provisions) Act 2010 (TIOPA 2010).

22. Paragraph [2] introduces a new Part 17A into CTA 2010, comprising sections 815ZA to 815ZD.
23. Section 815ZA gives an overview of Part 17A, explaining that it deals with the application of the Corporation Tax Acts to manufactured dividend relationships and payments which represent dividends.
24. Section 815ZB defines “manufactured dividend relationship”, “manufactured dividend” and “the real dividend”. The definitions are modelled on the manufactured interest provisions in Chapter 9 of Part 6 of the Corporation Tax Act 2009 (CTA 2009).
25. Subsection (1) provides that a company has a manufactured dividend relationship if conditions A to C are met. Those conditions are as follows:
  26. Subsection (2) gives Condition A. Condition A is that arrangements are in place which provide that an amount is payable by or to a company, or any other benefit is given by or to the company. A benefit can include the release from any liability to pay an amount.
  27. Subsection (3) sets out Condition B. Condition B is that the arrangements relate to the transfer of shares in a company
  28. Subsection (4) sets out condition C, which is that the amount, or the value of the other benefit referred to in Condition A is, or will be treated as, representative of a dividend on the shares.
  29. Subsection (5) provides that the reference to an amount being payable or other benefits being given by the company includes a reference to the amount or benefit being given by another person on behalf of the company.
30. Subsection (6) provides further definitions for Part 17A. A “manufactured dividend” means an amount, or the value of a benefit, within subsection (2), and “the real dividend” means the dividend mentioned in subsection (4)(a).
31. Section 815ZC sets out the treatment for tax purposes of the payer of a manufactured dividend.
32. Subsection (1) provides that the section applies where a company has a manufactured dividend relationship under which a manufactured dividend is paid by or on behalf of the company.

33. Subsection (2) provides that no income deduction is allowed in respect of the manufactured dividend. This is subject to subsections (3) to (5).
34. Subsection (3) provides that subsection (2) does not apply in relation to a company as far as the manufactured dividend is brought into account in calculating the profits of a trade carried on by the company. In these circumstances a deduction may be available subject to satisfying the normal requirements.
35. Subsection (4) provides that subsection (5) applies if the manufactured dividend relates to investment business of the company and the company received the real dividend in the accounting period and the real dividend is taxed by virtue of section 548(5) CTA 2010 (recipients of distributions from REITs).
36. Subsection (5) provides that in these circumstances, the manufactured dividend is to be treated as expenses of management of the company's investment business for the accounting period.
37. Subsection (6) provides that references in section 815ZC(4) to a real dividend include references to a manufactured dividend which is treated as a real dividend as a result of the application of section 815ZC(2). This means that where a company receives a manufactured dividend, and pays a manufactured dividend representative of that manufactured dividend, it may qualify as an expense of management, provided the other conditions of section 815ZC(4) apply.
38. Section 815ZD provides for the tax treatment of the recipient of a manufactured dividend.
39. Subsection (1) provides that subsection (2) applies if a company has a manufactured dividend relationship under which a manufactured dividend is payable to it.
40. Subsections (2) and (3) provide that for corporation tax purposes, the manufactured dividend is treated as a dividend on the shares, subject to subsections (4) to (8).
41. Subsection (4) provides that subsection (2) does not apply to a company as far as the manufactured dividend is brought into account as profits of a trade carried on by the company.
42. Subsection (5) provides that subsection (2) does not apply in relation to a company for the purposes of double taxation relief, defined in subsection (9) as any relief given under or as a result of Part 2 of the Taxation (International and Other Provisions) Act 2010 (TIOPA 2010).

43. Subsection (6) provides that part 9A of CTA 2009 (which deals with company distributions) has effect with the modification given in subsection (7).
44. Section (7) sets out the modification, which is that references in part 9A to the payer are to be treated as references to the company that pays the real dividend, and that the definition of the payer in section 931T of CTA 2009 is treated as omitted.
45. Subsection (8) provides that the company to which the manufactured dividend is payable is not entitled to a tax credit under section 1109 of CTA 2010 in respect of that manufactured dividend.
46. Subsection (10) gives section 815ZD priority over other legislation, so that it has effect regardless of section 358 of CTA 2009, or any other provisions of Part 5 of CTA 2009 which would otherwise prevent a loan relationships credit from being brought into account.
47. Paragraph 3 introduces various consequential and other amendments.
48. Paragraph 4 provides that the Taxation of Chargeable Gains Act 1992 (TCGA 1992) is to be amended.
49. Paragraph 5 replaces section 263B(7) TCGA 1992 with new text defining securities for the purposes of section 263B, replacing references to the same definitions in Part 17 of CTA 2010, which has been repealed.
50. Paragraph 6 repeals section 263D TCGA 1992, which concerns gains accruing to persons paying manufactured dividends.
51. Paragraphs 7, 8 and 9 make consequential changes to TCGA 1992 to reflect the repeal of section 263D.
52. Paragraph 10 amends the regulation making power in Section 263I, introducing definitions of manufactured overseas dividend, overseas securities, overseas dividend and securities, as these definitions are being repealed from ITA 2007.
53. Paragraph 11 amends the Finance Act 2004 to reflect the repeal of section 263D.
54. Paragraph 12 provides for amendments to ITTOIA 2005.
55. Paragraphs 13 and 14 amend sections 397(6) and 397A of ITTOIA 2005 to reflect the replacement of section 592 ITA 2007 with the similar provision in section 614ZD(6).
56. Paragraph 15 omits section 397B of ITTOIA 2005. That section refers to the treatment of manufacture overseas dividends from which

tax has been deducted under section 581 ITA 2007. As that section, and the requirement to deduct tax, are being repealed, s397B will become redundant.

57. Paragraph 16 provides for amendments to ITA 2007.
58. Paragraph 17 provides for Chapters 1 to 3 of Part 11 (manufactured payments and repos) to be repealed, apart from section 596(5) which will be repealed separately, and makes a consequential change to section 606. The provisions of those chapters are either being replaced by sections 614ZA to 614 ZD or being repealed, in line with the new simplified regime.
59. Paragraph 18 amends section 647 ITA 2007. It introduces definitions of manufactured payments contract, overseas securities, overseas dividend and UK securities. This is necessary because section 647 currently refers to the definitions in section 578 and 581, which are being repealed.
60. Paragraph 19 amends section 658 ITA 2007, which supplements the regulation making powers in sections 656 and 657. Paragraph 19 introduces definitions of UK shares, UK securities and overseas securities into section 658. This is necessary because section 658 currently refers to the definitions in section 566 and 567, which are being repealed.
61. Paragraph 20 amends section 918(1) ITA 2007, which refers to manufactured dividends on shares in Real Estate Investment Trusts (REITs). It replaces a reference to section 573(1), which is being repealed, with a reference to section 614ZC(1).
62. Paragraph 21 amends section 919 ITA 2007, which concerns manufactured interest on UK securities. It replaces subsection (1), which refers to section 578(1) which is being repealed, with a similar subsection referring to section 614ZC(1).
63. Paragraph 22 repeals section 920 ITA 2007. That section contains the reverse charge provision, which imposes a requirement to deduct tax on a UK recipient of manufactured interest. That reverse charge requirement will no longer apply.
64. Paragraph 23 amends section 921 ITA 2007. That section applies to cases where interest is paid gross on underlying securities, and provides that section 919(2) does not require any deduction of a sum representing income tax on the payment of the manufactured interest.
65. Paragraph 24 repeals sections 922 to 925 ITA 2007. Those sections impose the requirement to deduct tax from manufactured overseas

dividends, and the reverse charge. Those requirements will no longer apply.

66. Paragraph 25 makes consequential amendments to section 925A(2) ITA 2007.
67. Paragraph 26 makes a consequential repeal of section 925B ITA 2007. That section refers to the consequences of the reverse charge provisions, which are being repealed.
68. Paragraph 27 makes consequential changes to section 925C ITA 2007.
69. Paragraph 28 repeals subsections (1) and (1A) of section 926 ITA 2007, since those interpretation provisions apply to sections which are being repealed.
70. Paragraphs 29, 30 and 31 make various minor and consequential amendments to ITA 2007 following the repeal of Chapters 1-3 and sections 922-925.
71. Paragraph 32 provides for the Finance Act 2008 (FA 2008) to be amended, and makes consequential changes to Schedule 12 and Schedule 23 to reflect the repeals of Chapters 1-3 and sections 922 - 925 of ITA 2007 and section 263D TCGA 1992.
72. Paragraph 33 provides for amendments to CTA 2009.
73. Paragraph 34 amends section 539 CTA 2009. It repeals section 539(7) which refers to interest deemed to be paid under section 812(2) CTA 2010 as that section is being repealed following the introduction of section 815ZB CTA 2010.
74. Paragraph 35 amends section 540(3) CTA 2009, deleting a reference to section 799 CTA 2010, which is being repealed.
75. Paragraph 36 amends section 550 CTA 2009. It deletes section 550(6) which refers to double taxation relief in respect of a manufactured overseas dividend, which will no longer be available, and inserts new subsections 550(5B – 5D) which provide that a borrower will not be entitled to double taxation relief as a result of section 550(3) unless actual overseas tax has been deducted from the manufactured payment.
76. Paragraph 37 amends section 1221(1) CTA 2009, which refers to amounts treated as expenses of management. It deletes section 1221(1)(i) and replaces the reference in that section to section 791(4) 2010, which is being repealed, with a reference to section 815ZC(5) 2010.

77. Paragraph 38 amends section 1248 CTA 2009. It repeals two references to section 799 CTA 2010, which is being repealed.
78. Paragraph 39 provides for amendments to the Finance Act 2009 (FA 2009), repealing paragraphs (4) and 13(b) which refer to provisions in ITTOIA 2005 and ITA 2007 which are being repealed.
79. Paragraph 40 provides for amendments to CTA 2010.
80. Paragraph 41 repeals Part 17 of CTA 2010. That Part contains provisions which apply to manufactured payments, stock lending, and repos, which are being replaced by sections 815ZA to 815ZD of CTA 2010, or which will no longer be required.
81. Paragraph 42 amends section 1109 (5) of CTA 2010. It inserts a reference to section 815ZD which provides that no tax credit is available for recipients of manufactured dividends, and repeals references in section 1109(5)(a) to legislation which is now repealed.
82. Paragraph 43 makes various repeals of paragraphs in Schedule 1 which refer to repealed legislation.
83. Paragraph 44 repeals a reference in Schedule 2 which refers to Part 17 of CTA 2010 as that Part is repealed.
84. Paragraph 45 makes consequential repeals from defined expressions in Schedule 4 CTA 2010.
85. Paragraph 46(1) provides for amendments to TIOPA 2010.
86. Paragraph 46(2) repeals section 85A(4)(b) which refers to sections 792 and 794 of CTA 2010, which are repealed.
87. Paragraph 46(3) and (4) repeal paragraph 113 from Schedule 7 and paragraph 82 from Schedule 8, both of which refer to repealed legislation.
88. Paragraph 47 amends Finance Act 2011. It repeals paragraphs 22 and 24 in Schedule 13, which refer to repealed legislation.
89. Paragraph 48 provides for amendments to Finance Act 2012. It repeals section 22, the final line of section 78(3) and paragraphs 220 to 223 of Schedule 16, all of which refer to repealed legislation.
90. The provisions of Part 1 of this Schedule, which apply for income tax, and those of Part 2, which apply for corporation tax, will apply in respect of manufactured payments made on or after 1 January 2014. The provisions of Part 3, which are mainly repeals and consequential amendments, will apply from 1 January 2014.

**BACKGROUND NOTE**

91. The legislation applying to manufactured payments is complex, and has been the subject of a number of avoidance schemes.
92. A consultation was carried out in 2012 which set out proposals for reforming and simplifying the legislation. Responses to the consultation document were supportive.
93. Legislation is therefore now being introduced to simplify the tax treatment of manufactured payments.
94. For corporation tax purposes, the current treatment of manufactured interest is not changed.
95. Manufactured dividends will be treated in two possible ways. When they are received by a financial trader, they will be taxed as trade receipts, and when paid by a financial trader they will generally be allowed as a trade deduction.
96. Generally, no specific provisions will not be required to bring about this effect, and following the accounts prepared in accordance with GAAP will bring about this effect.
97. In other circumstances, the receipt of a manufactured dividend will not be taxable and the payment of a manufactured dividend will not be allowable as a deduction.
98. The current rules requiring tax to be deducted when a manufactured overseas dividend (MOD) is paid will be repealed. The reverse charge (under which a UK company receiving a MOD from which tax had not been deducted had to deduct tax and pay it to HMRC) has also been repealed.
99. If you have any questions about this change, or comments on the legislation, please contact Geoff Heaton on 020 7147 2577 (email: [geoff.heaton@hmrc.gsi.gov.uk](mailto:geoff.heaton@hmrc.gsi.gov.uk)) or Chris Murrucane on 020 7147 2818 (email: [chris.murrucane@hmrc.gsi.gov.uk](mailto:chris.murrucane@hmrc.gsi.gov.uk)).