
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 23rd March 1995, apply to assets, currency contracts and liabilities held or owed by a company immediately before the provisions relating to exchange gains and losses contained in Chapter II of the Finance Act 1993 first apply as respects that company.

These Regulations consist of four Parts:

- Part I which consists of matters of general application;
- Part II which contains miscellaneous provisions relating to the deferment of the commencement day in certain cases, to the determination of exchange rates to be used at commencement, and to basic valuations;
- Part III which contains provisions relating to gains and losses which have accrued, as respects capital assets and assets and liabilities within Case I of Schedule D, to a company before its commencement date and which would have been taken into account for tax purposes if Chapter II of Part II of the Finance Act 1993 had not been enacted; and
- Part IV, which contains provisions relating to gains and losses which have accrued, as respects debts of fixed amounts, to a company before its commencement date.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 provides that where calculations need to be made both under these Regulations and under certain other provisions which affect the amount of an exchange gain or loss, the calculations under these Regulations are to be made first.

Regulation 3 allows the commencement day as respects certain fluctuating debts to be deferred for up to 6 years in cases where exchange differences which accrued before the company's (und deferred) commencement day were not previously recognised for tax purposes.

Regulation 4 prevents any exchange difference accruing on a debt which is irrecoverable at the company's commencement day from being brought into any computation under Chapter II of Part II of the Finance Act 1993.

Regulation 5 modifies section 150 of the Finance Act 1993 as it applies to determine the exchange rate to be used in relation to the first translation time for an existing asset, liability or currency contract.

Regulation 6 provides, subject to certain specified exceptions, that the basic valuation of an existing asset or liability is its value immediately before the company's commencement day.

Regulation 7 provides for interpretation of terms used in Part III of the Regulations.

Regulation 8 provides for the pre—commencement gains or losses to be computed and attributed to certain trading assets and liabilities.

Regulation 9 provides for pre—commencement gains or losses to be computed and attributed to assets formerly within the capital gains tax regime.

Regulations 10 and 11 provide for the calculation of aggregate amounts of exchange gains and losses for the purposes of regulations 12 and 13.

Regulation 12 provides for a gain or loss attributed to an asset or liability under regulation 8 or 9 (the “attributed gain or loss”) to be set off on a cumulative basis against amounts which accrue after the company's commencement day.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 13 applies where the whole or any part of an attributed gain or loss has not been set against exchange gains or losses under regulation 12, and provides for it to be brought into account for tax purposes, in whole or in part, as an exchange gain or loss or as a capital gain or loss.

Regulation 14 makes provision for the amount which would otherwise be taxed or relieved as a chargeable gain or allowable loss under regulation 13 to be reduced in certain circumstances, and permits a company to elect that, subject to certain conditions, an amount which would otherwise be treated as an allowable loss should instead be set against exchange gains of the accounting period in which the asset is disposed of and of subsequent accounting periods.

Regulation 15 enables a company to elect that regulations 10 to 14 shall not apply to any of its existing assets and liabilities (other than assets falling within regulation 6(3)). Where an election is made the attributed amount found under regulation 8 is divided into six equal parts which are treated as exchange gains or losses arising in each of the six years following commencement.

Regulation 16 permits a company to elect that certain allowable losses realised on certain classes of assets prior to the company's commencement day should be set against exchange gains accruing after commencement on assets of the same class and on certain currency contracts.

Regulation 17 provides for Part IV of the Regulations to apply to debts of fixed amount and term.

Regulations 18 and 19 provide for the calculation for the purposes of regulation 20 of aggregate amounts of exchange differences accruing before and after commencement.

Regulation 20 provides that in relation to certain debts on which exchange differences were not previously recognised for tax, exchange gains or losses which accrue following the company's commencement day are to be compared to the overall exchange differences which have accrued since the date the asset or liability came into existence, and the exchange gain or loss of each accrual period is to be adjusted to prevent the post— commencement net exchange gain or loss from exceeding the overall exchange gain or loss over the life of the asset or liability.

Regulation 21 applies where the amount of a debt increases after the company's commencement day. It substitutes for the gain or loss otherwise deemed to accrue in accordance with regulation 20 another gain or loss equal to the aggregate of:

- an amount equal to the exchange gain or loss which would have accrued, after applying regulation 20, had the amount of the debt not increased, and
- an amount equal to the exchange gain or loss which would accrue, disregarding regulation 20, had the amount by which the debt increased been a separate debt.

Regulation 22 provides for regulations 18 to 21 to continue to apply where loans are repaid and replaced within a specified period.