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STATUTORY INSTRUMENTS

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**2002 No. 1970**

**The Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002**

**Regulations 5 and 6: supplementary**

- 7.—(1) This regulation has effect for the purposes of regulations 5 and 6.
- (2) References to the asset disposed of include references to any predecessor asset which was—
- (a) original shares; or
  - (b) “the old asset” construed in accordance with section 116 of the 1992 Act<sup>(1)</sup>.
- (3) References to the company disposing of the asset include references to any predecessor company which was “the disposing company” for the purposes of regulation 8 of the 1994 Regulations.
- (4) In respect of any time falling within an accounting period beginning before 1st October 2002 a liability is matched with an asset to the extent that it is matched in accordance with an election under regulation 10 of the 1994 Regulations.
- (5) In respect of any time falling within an accounting period beginning on or after 1st October 2002—
- (a) a liability is fully matched with an asset where an amount representing the whole of an exchange gain or loss arising in relation to the liability is treated as mentioned in subsection (5) of section 84A or sub-paragraph (4) of paragraph 16; and
  - (b) where the amount treated as mentioned in that subsection or that sub-paragraph represents only part of an exchange gain or loss, the liability shall be treated as being matched only to the corresponding extent.
- (6) Where in any accounting period beginning on or after 1st October 2002—
- (a) a company holds more than one asset in relation to which there are amounts falling within subsection (6) of section 84A or sub-paragraph (5) of paragraph 16; and
  - (b) the assets are denominated and the liabilities are expressed in the same currency,
- the extent to which an asset is matched shall be determined in accordance with the rules set out in paragraph (7) below.
- (7) The following rules shall apply in relation to—
- (a) any disposal of an asset occurring before the relevant disposal;
  - (b) any asset held at the time of the relevant disposal.

*Rule 1*

Liabilities are to be regarded as having been matched to the greatest possible extent with assets which—

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<sup>(1)</sup> Section 116 was amended by section 46(3) of the Finance (No. 2) Act 1992, paragraph 60 of Schedule 14, paragraph 51 of Schedule 20, and Part 5(10) of Schedule 41, to the Finance Act 1996, section 88(4) of the Finance Act 1997 (c. 16) and paragraph 19 of Schedule 29 to the Finance Act 2000.

- (a) represent loan relationships of the company (other than ones which fall within section 93 of the Finance Act 1996); or
- (b) are ships or aircraft.

*Rule 2*

Subject to Rule 1, liabilities are to be regarded as having been matched to the greatest possible extent with assets (other than foreign business assets) on the disposal of which a chargeable gain accrues or would accrue.

*Rule 3*

Subject to Rules 1 and 2, liabilities are to be regarded as having been matched with assets—

- (a) on the disposal of which no chargeable gain is treated as accruing by virtue of Part 1 of Schedule 7AC to the 1992 Act;
- (b) on a disposal of which no chargeable gain would be treated as accruing by virtue of that Part if the disposal were made on a date falling more than twelve months after the date of the relevant disposal but excluding assets which—
  - (i) are actually disposed of on a date falling less than twelve months after the date of the relevant disposal, and
  - (ii) have been held for less than twelve months at the date of the actual disposal; or
- (c) which are foreign business assets held at the time of the relevant disposal.

(8) For the purposes of paragraph (6) above, the currency in which a liability representing a loan relationship is expressed, or for the acquisition of which an obligation under a currency contract provides, is to be treated as the currency in which an asset is denominated if borrowing in, or the acquisition of, that currency could reasonably be expected to eliminate or substantially reduce the economic risk of holding the asset which is attributable to fluctuations in exchange rates.

(9) In paragraph (7) above, “the relevant disposal” means the disposal referred to in regulation 4.