
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I.2004/3256; “the Principal Regulations”, as amended by S.I. 2005/2012) which allow certain profits and losses from loan relationships and derivative contracts to be left out of account, to be brought into account in a different way or to be brought into account at a later date.

Regulation 1 provides for citation, commencement and effect. Authority for the limited retrospective effect of these Regulations is given by paragraph 52 of Schedule 4 to the Finance Act 2005 (c. 7).

Regulation 2 introduces the amendments to the Principal Regulations.

Regulation 3 amends regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc) and regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc) of the Principal Regulations to amend the definition of “unmatched carrying value” by reference to a new term “relevant value” which is defined in a new regulation 4A.

Regulation 4 amends regulation 3(6) of the Principal Regulations.

Regulation 5 amends regulation 4 of the Principal Regulations to make provision for cases where a derivative contract is used as a hedging instrument in relation to shares issued by the company.

Regulation 6 inserts two new regulations into the Principal Regulations. New regulation 4A defines “relevant value” in order to permit a company to continue to use a fair value basis of accounting in certain cases in relation to certain assets which are matched with a liability or derivative contract. New regulation 4B makes provision for cases where a company has non-trading loan relationships denominated in the same currency as the liability or derivative to be matched and the exchange gains or losses on the loan relationship are set off in the company’s profit and loss account against exchange gains or losses on the liability or derivative contract.

Regulation 7 amends regulation 6 (rules about fair value profits and losses) of the Principal Regulations to make provision for an election in relation to new regulation 9A.

Regulation 8 amends regulation 7(1)(a)(ii) (fair value profits and losses arising from derivative contracts which are currency contracts) and regulation 8(1)(a)(ii) (profits and losses arising from derivative contracts which are commodity contracts or debt contracts) of the Principal Regulations so that the Principal Regulations apply where the hedged item is not one for which fair value profits or losses are brought into account for the purposes of corporation tax.

Regulation 9 amends regulation 9 (profits or losses arising from derivative contracts which are interest rate contracts) of the Principal Regulations to make provision where an interest rate contract becomes or ceases to be a contract to which regulation 9 applies.

Regulation 10 inserts a new regulation 9A into the Principal Regulations which make provision for an alternative basis of taxing derivative contracts which are interest rate contracts.

Regulation 11 amends regulation 10 (bringing fair value profits and losses into account on currency and commodity contracts) of the Principal Regulations to make provision in relation to intra-group transfers of hedged items.

Regulation 12 amends regulation 11 (profits and losses arising from loan relationships with embedded derivatives) of the Principal Regulations to extend this regulation to other debits and credits brought into account under Chapter 2 of the Finance Act 1996 (c. 8).

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 amends regulation 12 of the Principal Regulations so this regulation does apply where a company carrying on a banking or securities business issues convertible securities in the ordinary course of that business and to extend this regulation to other debits and credits brought into account under Chapter 2 of the Finance Act 1996.

These Regulations impose no new costs on business.