

2007 No. 950

CORPORATION TAX

The Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2007

<i>Made</i>	- - - -	<i>21st March 2007</i>
<i>Laid before the House of Commons</i>		<i>21st March 2007</i>
<i>Coming into force</i>	- -	<i>11th April 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by paragraph 19B of Schedule 9 to the Finance Act 1996(a) and paragraph 17C of Schedule 26 to the Finance Act 2002(b).

Citation and commencement

1. These Regulations may be cited as the Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2007 and shall come into force on 11th April 2007.

Amendment to the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004

2. Amend the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004(c) as follows.

3.—(1) Amend regulation 3C (prescribed debits and credits not brought into account)(d) as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (e)—

(i) after “rate” where it first appears insert “currency, commodity or debt”;

(ii) for “an interest rate risk” substitute “a particular risk”;

(iii) for “6(5)” substitute “6(3A), (5) or (5B)”;

(iv) for the words in paragraph (i) substitute “they offset, or are expected to offset, variability in cash flows attributable to the risk being hedged, and”;

(b) in sub-paragraph (f) for “loan relationships with embedded derivatives” substitute “convertible securities etc: debtor relationships”.

4.—(1) Amend regulation 4 (prescribed debits and credits) as follows.

(a) 1996 c. 8; paragraph 19B of Schedule 9 was inserted by paragraph 36 of Schedule 10 to the Finance Act 2004 (c. 12).

(b) 2002 c. 23; paragraph 17C of Schedule 26 was inserted by paragraph 50 of Schedule 10 to the Finance Act 2004.

(c) S.I. 2004/3271, amended by S.I. 2005/3383 and 2006/3238.

(d) Regulation 3C was inserted by regulations 2 and 5 of S.I. 2005/3383 and amended by regulations 2 and 5 of S.I. 2006/3238.

(2) In paragraph (1) for “paragraph” substitute “paragraphs (1A) and”.

(3) After paragraph (1) insert—

“(1A) In relation to a liability representing a loan relationship to which a company is treated as a party by section 94A(2)(a) of the Finance Act 1996(a) to which, immediately before the start of the first accounting period of the company beginning on or after 1st January 2005—

(a) section 92A(b) of that Act applied, but

(b) section 92A(4) of that Act did not apply,

in determining whether credits must be brought into account in accordance with section 85B(1)(b)(c) of, or paragraph 19A(3) of Schedule 9(d) to, that Act regulation 12(3) of the Disregard Regulations(e) shall be treated as not applying to the extent that the amount otherwise falling to be brought into account does not exceed the relevant amount specified in paragraph (1B).

(1B) The relevant amount is an amount equal to A less B, where—

A is the amount of all debits and credits in an accounting period ending on or after 27th December 2006 and before 11th April 2007 (“the relevant period”) in respect of the loan relationship save for—

(a) debits in relation to interest accruing in respect of the debtor relationship,

(b) credits and debits in respect of discounts, premiums, fees and other incidental costs to the extent that these amounts are not within 92A(3) of the Finance Act 1996(f), and

(c) debits and credits in respect of exchange gains and losses,

without regard to the amounts given by the effective interest method; and

B is the amount of debits in the relevant period in respect of the loan relationship to the extent that they are within section 92A(3) of the Finance Act 1996.”.

(4) In paragraph (5) for “paragraph (4)” substitute “this regulation”.

Frank Roy

Alan Campbell

21st March 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 94A was inserted by section 52 of, and paragraph 13 of Schedule 10 to, the Finance Act 2004 and amended by section 80 of, and paragraph 28(1) and (2) of Schedule 4 to, the Finance Act 2005 (c. 7).

(b) Section 92A was inserted by section 76 of the Finance Act 2002 (c. 23), amended by sections 83(1)(b) and (3) and 141 of, and paragraphs 17 and 18 of Schedule 27 and Part 3(13) of Schedule 40 to, that Act and was repealed by sections 52 and 326 of, and paragraph 9 of Schedule 10 and Part 2(6) of Schedule 42 to, the Finance Act 2004.

(c) Section 85B was substituted and inserted by paragraph 3 of Schedule 10 to the Finance Act 2004 and amended by section 80 of, and paragraph 26 of Schedule 4 to, the Finance Act 2005 (c. 7).

(d) Paragraph 19A was inserted by section 52 to, and paragraph 36 of Schedule 10 to, the Finance Act 2004.

(e) S.I. 2004/3256, regulation 12(3) was inserted by regulations 2 and 11 of SI 2005/2012 and regulation 2 and 13 of 2005/3374.

(f) Section 92A was inserted by section 76 of the Finance Act 2002 (c. 23), amended by sections 83(1)(b) and (3) and 141 of, and paragraphs 17 and 18 of Schedule 27 and Part 3(13) of Schedule 40 to, that Act and was repealed by sections 52 and 326 of, and paragraph 9 of Schedule 10 and Part 2(6) of Schedule 42 to, the Finance Act 2004.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271, as amended by S.I. 2005/3383 and 2006/3238: “the Principal Regulations”) which make provision for certain debits and credits not to be brought into account in the first accounting period beginning on or after 1st January 2005 but to be brought into account over a ten year period, in the first accounting period beginning on or after 1st January 2006, or not to be brought into account for any period.

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the amendments to the Principal Regulations.

Regulation 3 amends regulation 3C (prescribed debits and credits not brought into account). The amendment to paragraph (2)(e) extends the specified debits and credits which are not brought into account to certain debits and credits in relation to certain interest rate, currency, commodity or debt contracts where an election has been made under regulation 6(3A) or (5B) of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256, amended by S.I. 2005/2012, 2005/3374, 2006/843, 2006/936 and 2006/3236). The amendment to paragraph (2)(f) corrects a cross-reference.

Regulation 4 amends regulation 4 (prescribed debits and credits) to extend the prescribed credits to be brought into account in accordance with regulation 3 of the Principal Regulations.

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

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