

2011 No. 2912

CORPORATION TAX

The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011

Made - - - - at 9.30 a.m. on 6th December 2011

Laid before the House of Commons at 11.30 a.m. on 6th December 2011

Coming into force - - at 11.45 a.m. on 6th December 2011

The Treasury make the following Regulations in exercise of the powers conferred by sections 328(4), 598(1) and 606(4) of the Corporation Tax Act 2009(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 and shall come into force at 11.45 a.m. on 6th December 2011.

(2) These Regulations have effect in relation to shares, ships or aircraft which are matched on or after that date in accordance with regulations 3 or 4 of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004(b).

Amendments to the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004

2. The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 are amended as follows.

Amendment of regulation 2 (interpretation)

3. In regulation 2 (interpretation), after paragraph (3) insert—

“(3A) For the purposes of these Regulations, a liability representing a loan relationship or a derivative contract is treated as matched with shares, ships or aircraft from the date that, and to the extent that, either condition 1 or 2 of regulations 3(3) or 4(3) are satisfied.”.

Amendment of regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc)

4.—(1) In regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc), after paragraph (1) insert—

(a) 2009 c. 4.

(b) S.I. 2004/3256, relevantly amended by S.I. 2005/2012 and 2011/698.

“(1ZA) But where the matched shares, ships or aircraft are matched after the company became party to the loan relationship, paragraph (1) only applies to a just and reasonable proportion of any exchange gain or loss having regard to—

- (a) the fraction of the accounting period for which the shares, ships or aircraft are matched with the loan relationship,
- (b) the fraction of the accounting period for which the company was party to the loan relationship, and
- (c) fluctuations in exchange rates during the accounting period.”.

(2) In paragraph (3), in condition 1 omit “for the accounting period,”.

Amendment of regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc)

5.—(1) In regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc), after paragraph (1) insert—

“(1A) But where the matched shares, ships or aircraft are matched after the company became party to the derivative contract, paragraph (1) only applies to a just and reasonable proportion of any exchange gain or loss having regard to—

- (a) the fraction of the accounting period for which the shares, ships or aircraft are matched with the derivative contract,
- (b) the fraction of the accounting period for which the company was party to the derivative contract, and
- (c) fluctuations in exchange rates during the period.”.

(2) In paragraph (3), in condition 1 omit “for the accounting period,”.

Jeremy Wright
Angela Watkinson

At 9.30 a.m. on 6th December 2011 Two of the Lords Commissioners of Her Majesty’s Treasury

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”) 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.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 2 (interpretation) to insert paragraph (3A) to clarify when an asset representing a loan relationship or a derivative contract is treated as matched for the purposes of the principal Regulations.

Regulation 4 amends regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc) to clarify the proportion of exchange gains or losses that are left out of account where the matched shares, ships or aircraft are not matched throughout the period for which a company is party to the loan relationship.

Regulation 5 amends regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc) to make equivalent amendments in respect of derivative contracts.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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