STATUTORY INSTRUMENTS

2013 No. 1843

CORPORATION TAX

CAPITAL GAINS TAX

The Exchange Gains and Losses (Bringing into Account Gains or Losses) (Amendment) Regulations 2013

Made - - - -	*18th July 2013*
Laid before the House of Commons	*22nd July 2013*
Coming into force - -	*12th August 2013*

The Treasury make the following Regulations in exercise of the powers conferred by sections 151E of the Taxation of Chargeable Gains Act 1992(**a**), paragraph 26(5) of Schedule 23 to the Finance Act 2002(**b**) and sections 328(5) to (7) and 606(5) to (7) of the Corporation Tax Act 2009(**c**).

Citation and commencement

1.—(1) These Regulations may be cited as the Exchange Gains and Losses (Bringing into Account Gains or Losses) (Amendment) Regulations 2013 and come into force on 12th August 2013.

(2) These Regulations have effect in relation to a disposal of an asset made on or after 1st September 2013.

Amendment to the Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002

2.—(1) The Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002(**d**) are amended as follows.

(2) In regulation 5 (calculation of the amount of any net gain or net loss for the purposes of regulation 4)—

(a) after paragraph (1) insert—

"(1A) The net gain or net loss must be calculated in the company's relevant currency at the time of the disposal of the asset.",

---

(**a**) 1992 c. 12, section 151E was inserted by paragraph 370 of Schedule 1 to the Corporation Tax Act 2009 (c. 4).
(**b**) 2002 c. 23, paragraph 26(5) of Schedule 23 was amended by paragraph 541(3)(b) of Schedule 1 to the Corporation Tax Act 2009.
(**c**) 2009 c. 4.
(**d**) S.I. 2002/1970, amended by S.I. 2010/809; there are other amending instruments but none is relevant.

(b) after paragraph (2) insert—

"(2A) Where section 9C of the Corporation Tax Act 2010 (chargeable gains and losses of companies)(**a**) applies in relation to the asset disposed of, in determining the amounts representing accrued exchange gains or losses—

(a) exchange gains and losses must be calculated in the relevant currency of the company for the period in which the gains or losses arose,

(b) if there is a change in the company's relevant currency before the asset is disposed of, the amount of any accrued exchange gains or losses must be translated (or if it has previously been translated under this paragraph, further translated) into the relevant currency of the company immediately following the change by reference to the spot rate of exchange for the day of the change, and

(c) if sub-paragraph (b) applies as a result of more than one change in the company's relevant currency, it is to be applied in relation to each change in the order the changes were made (with the earliest first).", and

(c) at the end insert—

"(5) Subject to paragraph (6), for the purposes of this regulation and regulation 8, a company's relevant currency at any time is its functional currency at that time.

(6) If at any time—

(a) a company is a UK resident investment company, and

(b) the company has a designated currency which is different from its functional currency,

the company's relevant currency at that time is that designated currency.

(7) In this regulation—

"designated currency" means the currency a company elects as its designated currency under section 9A of the Corporation Tax Act 2010(**b**);

"functional currency" has the same meaning as in section 17(4) of that Act(**c**);

"investment company" has the meaning given by section 17(3A) of that Act.".

(3) In regulation 8 (no gain/no loss disposals)—

(a) after paragraph (2) insert—

"(2A) Where section 9C of the Corporation Tax Act 2010 applies in relation to the asset on or before the first relevant disposal, for the purposes of determining the net gain or net loss to be brought into account on the first relevant disposal of the asset—

(a) where the relevant currency of the company disposing of the asset is different from the relevant currency of the company acquiring the asset, the net gain or net loss must be translated into the relevant currency of the company acquiring the asset at the time of the no gain/no loss disposal by reference to the spot rate of exchange at that time,

(b) if there is a change in the acquiring company's relevant currency before the asset is disposed of, the amount of the net gain or net loss must be translated (or if it has previously been translated under this paragraph, further translated) into the relevant currency of the company immediately following the change by reference to the spot rate of exchange for the day of the change,

(c) if sub-paragraph (b) applies as a result of more than one change in the company's relevant currency, it is to be applied in relation to each change in the order the changes were made (with the earliest first), and

---

(**a**) 2010 c. 4, section 9C was inserted by section [66] of the Finance Act 2013 (c. 29).
(**b**) Section 9A was inserted by paragraph 3 of Schedule 7 to the Finance Act 2011 (c. 11).
(**c**) Section 17(3A) was inserted by paragraph 4 of Schedule 7 to the Finance Act 2011.

(d) sub-paragraphs (a) and (b) apply in relation to each no gain/no loss disposal of the asset before the first relevant disposal of the asset.”, and

(b) in paragraph (3), for “paragraph (2) above” substitute “this regulation”.

Mark Lancaster
Anne Milton
18th July 2013 Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002, which provide for exchange gains or losses on loan relationships or derivative contracts which hedge foreign exchange risk from a company’s investment in a foreign enterprise, and which have previously been disregarded for corporation tax purposes, to be brought back into account in specified circumstances.

Section 9C of the Corporation Tax Act 2010 (inserted by section 66 of the Finance Act 2013) makes provision in relation to the currency used in tax calculations of chargeable gains and losses on the disposal of certain assets. These Regulations make equivalent provision in relation to the calculation of the gain or loss arising on a loan relationship or derivative contract used to hedge any foreign exchange risk in relation to such assets.

Regulation 2(2) amends regulation 5, which provides for the calculation of amounts to be brought into account for the purposes of the Taxation of Chargeable Gains Act 1992 to include provision in relation to the currency in which the calculations must be made. Regulation 2(3) amends regulation 8 to make equivalent provision in relation to no gain/no loss disposals.

A Tax Information and Impact Note covering this instrument was published at Budget 2013 on 20 March 2013 and is available on the HMRC website at www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.00

UK2013071812 07/2013 19585

http://www.legislation.gov.uk/id/uksi/2013/1843

ISBN 978-0-11-110219-0