

2011 No. 698

CORPORATION TAX

The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2011

<i>Made</i>	- - - -	<i>9th March 2011</i>
<i>Laid before the House of Commons</i>		<i>10th March 2011</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 328(4) 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) Regulations 2011 and shall come into force on 1st April 2011.

(2) These Regulations shall have effect in relation to accounting periods beginning on or after 1st April 2011.

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(b) are amended as follows.

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

3. In regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc)(c) in paragraph (3) in condition 2 for “and” substitute “or”.

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

4. In regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc)(d) in paragraph (3) in condition 2 for “and” substitute “or”.

(a) 2009 c. 4.

(b) S.I. 2004/3256, relevantly amended by S.I. 2005/2012, 2005/3374 and 2007/3431.

(c) Regulation 3 was relevantly amended by S.I. 2005/2012.

(d) Regulation 4 was relevantly amended by S.I. 2005/2012.

Amendment of regulation 4A (relevant value)

- 5.—(1) Amend regulation 4A (relevant value)(a) as follows.
- (2) In paragraph (7) at the end insert—
“This is subject to paragraph (8A).”.
- (3) After paragraph (8) insert—
“(8A) Where a company has made an election before 1st April 2011 and has specified a review period of 92 days or less, it may amend that election to increase the length of the review period specified.
(8B) An amendment to an election must be made by 1st June 2011 by notice in writing to Her Majesty’s Revenue and Customs.”.
- (4) Renumber the second paragraph (6) as paragraph (9).

Substitution of regulation 4C (review period)

6. For regulation 4C (review period)(b) substitute—

“Review period

4C.—(1) For the purposes of regulations 4A(7)(e) and 4B(2)(c), a review period is a period, or one of a series of successive periods, of a length specified by a company making an election in accordance with regulation 4A(1)(a).

This is subject to the provisions of this regulation.

(2) A review period, or where more than one in an accounting period the first review period in that accounting period, begins on the first day of the accounting period or, if later, the date that a liability or derivative contract first becomes matched with shares in accordance with regulation 3(3)(b) or 4(3)(b).

(3) A review period, or where more than one in an accounting period the last review period in that accounting period, must end on the last day of the accounting period.

(4) If a company has matched shares in accordance with regulation 3(3)(b) or 4(3)(b) (“the first asset”), the first review period in relation to shares which are subsequently matched—

- (a) begins when the subsequent matching occurs, and
- (b) ends at the same time as the review period which is current in relation to the first asset when the subsequent matching occurs.

(5) If during a review period (“the current period”) there is a significant variation in the net asset value underlying shares which have been matched in accordance with regulation 3(3)(b) or 4(3)(b), there shall be a new review period in relation to those shares which—

- (a) begins on the day that any variation in the net asset value becomes a significant variation, and
- (b) ends at the same time as the current period.

(6) In paragraph (5) “significant variation” means an increase or decrease of 10% or more in the net asset value underlying the matched shares.

(7) In this regulation the net asset value underlying shares shall be determined in accordance with regulation 4A(2).”.

*Michael Fabricant
Angela Watkinson*

9th March 2011

Two of the Lords Commissioners of Her Majesty’s Treasury

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- (a) Regulation 4A was inserted by S.I. 2005/3374 and substituted by S.I. 2007/3431.
 - (b) Regulation 4C was inserted by S.I. 2007/3431.
 - (c) Regulation 4B was inserted by S.I. 2007/3431.

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) 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.

Regulation 3 amends regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc) so that an existing loan relationship can be matched with an asset.

Regulation 4 amends regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc) so that an existing derivative contract can be matched with an asset.

Regulation 5 amends regulation 4A (relevant value) to allow companies that have made an election under that regulation to amend that election to increase the length of the review period in line with the substituted provisions in regulation 4C.

Regulation 6 substitutes regulation 4C (review period). Where a company has elected to match the underlying net asset value of an asset the time to determine the value for matching purposes is at the start of a review period. This regulation defines the review period and provides that a new review period will start if there is a significant change in the net asset value during a review period.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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