

**2007 No. 948**

**CORPORATION TAX**

**The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (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 sections 84A(3A), 85B(3)(a) and (5)(b) of the Finance Act 1996(a), paragraphs 16(3A) and 17C(1) and (3)(b) of Schedule 26 to the Finance Act 2002(b) and paragraph 52 of Schedule 4 to the Finance Act 2005(c):

**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 2007 and shall come into force on 11th April 2007.

(2) These Regulations have effect in relation to periods of account ending on or after 11th April 2007.

This is subject to paragraph (3).

(3) Where a company ceased to be party to a debtor relationship to which regulation 12(1)(a)(i) of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 applies before 11th April 2007 regulation 6 shall not apply in respect of that relationship.

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

2. Amend the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004(d) as follows.

3.—(1) Amend regulation 4A (relevant value)(e) as follows.

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(a) 1996 c. 8. Section 84A was inserted by paragraph 3 of Part 1 of Schedule 23 to the Finance Act 2002 (c. 23) and subsection (3A) was substituted by paragraph 2(2) of Schedule 10 to the Finance Act 2004 (c. 12). 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.

(b) 2002 c. 23. Paragraph 16(3A) was substituted by paragraph 48(2), and paragraphs 17C(1) and 17C(3)(b) were substituted by paragraph 50, of Part 2 of Schedule 10 to the Finance Act 2004.

(c) 2005 c.7.

(d) S.I. 2004/3256, amended by S.I. 2005/2012, 2005/3374, 2006/843, 2006/936 and 2006/3236.

(e) Regulation 4A was inserted by regulations 2 and 6 of S.I. 2005/3374.

(2) in paragraph (2)(c)(i)—

- (a) for “the first” substitute “an”;
- (b) after “2005” insert “(“the new period”)”.

(3) In paragraph (3) for the words from “its” to the end substitute “the new period”.

**4.** In regulation 5 (regulations 3 and 4: supplementary), in paragraph (2) in sub-paragraphs (a) and (b) for “third condition” substitute “condition 2”.

**5.—**(1) Amend regulation 6 (rules about fair value profits and losses)(a) as follows.

(2) In paragraph (3) at the beginning insert “Except where an election has been made under paragraph (3A)”.

(3) In paragraph (3A)—

- (a) for “to” substitute “and”;
- (b) in paragraph (a) at the beginning insert “regulation 7 shall not apply, to”;
- (c) in paragraph (b) at the beginning insert “regulation 8 shall not apply, to”.

(4) In paragraph (5) after “(5A)” insert “and except where an election has been made under paragraph (5B)”.

(5) In paragraph (6A) for “(5A)” substitute “(5B)”.

**6.** In regulation 12 (profits and losses arising from loan relationships with embedded derivatives)(b), in paragraph (2)(a) for the words from “debits” to the end substitute

“all debits and credits in respect of the host contract save for—

- (i) debits in relation to interest accruing in respect of the debtor relationship,
  - (ii) credits and debits in respect of discounts, premiums, fees and other incidental costs to the extent that these amounts are not within section 92A(3) of the Finance Act 1996(c), and
  - (iii) debits and credits in respect of exchange gains and losses,
- without regard to the amounts given by the effective interest method, and”.

*Frank Roy*

*Alan Campbell*

21st March 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) Regulation 6 was amended by S.I. 2005/2012, 2005/3374 and 2006/3236.

(b) Regulation 12 was amended by S.I. 2005/2012, 2005/3374 and 2006/3236.

(c) Section 92A was inserted by section 76 of the Finance Act 2002, 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 (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256, as amended by S.I. 2005/2012, 2005/3374, 2006/843, 2006/936 and 2006/3236: “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. The amendment made by regulation 5(2) does not have effect in relation to a debtor relationship to which a company ceased to be party before these Regulations came into force.

Regulation 2 introduces the amendments to the Principal Regulations.

Regulation 3 amends regulation 4A (relevant value) to extend the effect of this regulation to all accounting periods beginning on or after 1st January 2005.

Regulation 4 amends regulation 5 (regulations 3 and 4: supplementary) to correct a cross reference.

Regulation 5 amends regulation 6 (rules about fair value profits and losses). These amendments preclude an election under paragraph (3) or (5) where an election has been made under paragraph (3A) or (5B), clarify the consequences of an election under paragraph (5A) and amend a cross-reference consequential to the amendments made by S.I. 2005/2012.

Regulation 6 amends regulation 12 (profits and losses arising from loan relationships with embedded derivatives) in relation to loan relationships to which section 92A of the Finance Act 1996 (c.8) (convertible securities etc: debtor relationships) applied immediately before the start of the first accounting period of a company to begin on or after 1st January 2005 to widen the description of debits to be disregarded and makes provision for excluded amounts to be brought into account.

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