
STATUTORY INSTRUMENTS

1992 No. 568

INCOME TAX

The Income Tax (Dealers in Securities) Regulations 1992

<i>Made</i>	- - - -	<i>9th March 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th March 1992</i>
<i>Coming into force</i>	- -	<i>22nd March 1992</i>

The Treasury, in exercise of the powers conferred on them by section 732(2A) and (7) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Dealers in Securities) Regulations 1992 and shall come into force on 22nd March 1992.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the Board of directors” means the Board of directors of LIFFE (A & M);

“the Delta number” means the number which—

- (a) is calculated and published from time to time under the authority of the Board of directors in relation to each type of option and the price at which the option may be exercised, and
- (b) reflects the degree of probability of exercise of that option as determined by the Board of directors in the light of the current market price of the shares or stock to which the option relates;

“the Deltaplus limit” has the meaning given by regulation 5(2);

“designated account” means an account designated for a member by the Board of directors in connection with options to buy or sell equity securities;

“equity securities” means securities within the meaning of section 731(9) of the Taxes Act which are issued by a company;

“the first buyer” has the meaning given by section 731(2) of the Taxes Act;

“LIFFE” means The London International Financial Futures and Options Ex change;

(1) 1988 c. 1; subsections (2A) and (7) of section 732 were inserted by section 56 of the Finance Act 1991 (c. 31).

“LIFFE (A & M)” means The London International Financial Futures Exchange (Administration and Management);

“the Max limit” has the meaning given by regulation 5(1);

“member” means a member of LIFFE (A & M) who is recognised as such by the Board of directors;

“option” means an option to buy or sell securities which is listed by and traded on LIFFE;

“options market maker” means a member who buys and sells, on his own account, options to buy or sell equity securities and who, at the times specified in regulation 4(3)(b) and (4), was recognised by the Board of directors as a market maker in relation to options in respect of equity securities of a particular kind and was acting in the capacity of a market maker in relation to those options;

“options principal trader” means a member who buys and sells, on his own account, options to buy or sell equity securities but who, at the times specified in regulation 4(3)(b) and (4), was not recognised by the Board of directors as a market maker in relation to options in respect of equity securities of a particular kind or, if so recognised, was not acting in the capacity of a market maker in relation to those options;

“relevant expiry month” means a calendar month during which an option to buy or sell equity securities of a particular kind will expire, unless previously exercised;

“section 732” means section 732 of the Taxes Act;

“subsection (1)” means subsection (1) of section 732;

“subsection (2A)” means subsection (2A) of section 732;

“the Taxes Act” means the Income and Corporation Taxes Act 1988.

Prescribed persons and date for the purposes of subsection (2A)

3. For the purposes of subsection (2A) this regulation prescribes—
- (a) The London Clearing House Limited as a recognised clearing house;
 - (b) a member who buys and sells options to buy or sell equity securities as a class or description of member referred to in paragraph (a) of that subsection;
 - (c) LIFFE (A & M) as a recognised investment exchange;
 - (d) 22nd March 1992 as the date referred to in paragraph (b) of that subsection.

Prescribed circumstances for the purposes of subsection (2A)

4.—(1) Paragraphs (2) and (3) of this regulation prescribe for the purposes of subsection (2A) the circumstances in which subsection (1) shall not apply.

(2) If the first buyer is The London Clearing House Limited, the prescribed circumstances are where—

- (a) the securities referred to in subsection (1) as purchased by the first buyer are equity securities of a particular kind, and
- (b) those securities were purchased by the London Clearing House Limited as the first buyer acting in its capacity as a person providing clearing services to LIFFE within the meaning of section 38(1) of the Financial Services Act 1986(2).

(3) If the first buyer is a member, the prescribed circumstances are where—

- (a) the securities referred to in subsection (1) as purchased by the first buyer are equity securities of a particular kind;
- (b) those securities were purchased by the member as the first buyer—
 - (i) as an options market maker at the date of purchase by way of a hedge against the likelihood of his having to deliver such securities on a future exercise of options which he has bought or sold, or
 - (ii) as an options principal trader at the date of purchase by way of a hedge against the likelihood of his having to deliver such securities on a future exercise of options which he has bought or sold, or
 - (iii) in order to meet his obligation to deliver securities resulting from the earlier exercise of options by or against him, or
 - (iv) in order to meet his obligation to receive securities resulting from the earlier exercise of options by or against him;
- (c) the number of such securities so purchased by the member—
 - (i) where paragraph (i) of sub-paragraph (b) applies, does not result in the total number of securities of that kind held at the date of purchase by the member for the purpose specified in that paragraph exceeding the Max limit applicable on that date in respect of securities of that kind, or
 - (ii) where paragraph (ii) of sub-paragraph (b) applies, does not result in the total number of securities of that kind held at the date of purchase by the member for the purpose specified in that paragraph exceeding the Deltaplus limit applicable on that date in respect of securities of that kind, or the Max limit applicable on that date in respect of securities of that kind to which he would be subject if he were a market maker, whichever is the less, or
 - (iii) where paragraph (iii) of sub-paragraph (b) applies, does not exceed the amount, if any, by which the number of securities which he is so obliged to deliver exceeds the number of securities of that kind calculated by reference to the formula—

$$A + B - C$$

where—

A is the number of securities of that kind which he held at the time of exercise of those options, other than securities which he was obliged to deliver at that time as the result of an earlier agreement to sell securities which at the time of the agreement he did not own and had not agreed to purchase, which he had agreed to sell in order to hedge the likelihood of his having to receive such securities on a future exercise of options which he had bought or sold, and which did not exceed the appropriate limit at the time of the agreement;

B is the number of such securities which he was obliged to receive at that time as a result of the earlier exercise of other options by or against him, and

C is the number of such securities which he held at that time as a hedge against the likelihood of his having to deliver such securities on a future exercise of other options which he had bought or sold;

- (d) if, following the purchase of such securities by the member in the circumstances referred to in paragraph (i) or (ii) of sub-paragraph (b), the number of such securities held by the member, other than securities held in order to meet his obligation to deliver securities as the result of the earlier exercise of options by or against him, exceeds, at any time subsequent to the date of purchase and for a period of six consecutive days, the appropriate limit as calculated from day to day in respect of securities of that kind, the amount of the excess is sold by him prior to the expiry of the day following the end of that period;

- (e) if, following a purchase of such securities by the member in the circumstances referred to in paragraph (iv) of sub-paragraph (b), the number of securities of that kind held by him exceeds, for a period of six consecutive days, the sum of—
- (i) the appropriate limit, as calculated from day to day, in respect of securities of that kind which are required as a hedge against the likelihood of his having to deliver such securities on a future exercise of other options which he has bought or sold, and
 - (ii) the number of securities of that kind required to meet his obligation to deliver securities resulting from the exercise of other options by or against him,

the amount of the excess is sold by him prior to the expiry of the day following the end of that period.

(4) For the purposes of sub-paragraphs (c)(iii), (d) and (e) of paragraph (3), “the appropriate limit” means—

- (a) as regards a member who is an options market maker in relation to those securities at the time of the agreement referred to in the definition of A in sub-paragraph (c)(iii) of paragraph (3) or, as the case may be, during the period specified in sub-paragraph (d) or (e) of that paragraph, the Max limit, and
- (b) as regards a member who is an options principal trader in relation to those securities at the time or, as the case may be, during the period referred to in sub-paragraph (a) of this paragraph, the Deltaplus limit or the Max limit, whichever is the less.

Meanings of the Max limit and the Deltaplus limit

5.—(1) For the purposes of paragraphs (3) and (4) of regulation 4, “the Max limit” means, in relation to options entered into by a member who is an options market maker to buy or sell equity securities of a particular kind, the maximum number of such securities which is found by—

- (a) making the following calculation in respect of each relevant expiry month and each designated account—

D E

where—

D is the number of securities which he is likely to deliver, and

E is the number of securities which he is likely to receive, on the exercise of options expiring within that month, on the assumption that—

- (i) the market price of the securities is at a figure which having regard to paragraphs (ii) and (iii) would produce the maximum figure resulting from that calculation,
 - (ii) such options as give the holder the right to buy such securities at a price above that market price, or to sell such securities at a price below that market price, are not exercised, and
 - (iii) such options as give the holder the right to buy such securities at a price equal to or below that market price, or to sell such securities at a price equal to or above that market price, are exercised;
- (b) where the amount calculated by reference to sub-paragraph (a) is a negative amount, treating that amount as zero; and
 - (c) aggregating the amounts so calculated in respect of all relevant expiry months and designated accounts.

(2) For the purposes of paragraphs (3) and (4) of regulation 4, “the Deltaplus limit” means, in relation to options entered into by a member who is an options principal trader to buy or sell equity securities of a particular kind, the maximum number of such securities which is found by—

- (a) subject to sub-paragraph (c), making the following calculation in respect of each relevant expiry month and each designated account—

$$F - G$$

where—

F is the number of such securities which he is likely to deliver on the exercise of options expiring within that month, calculated by multiplying the most recently published Delta number by the number of securities in respect of each option which would be transferred if that option were exercised, and

G is the number of securities which, adopting the same method of calculation, he is likely to receive, on the exercise of such options;

- (b) increasing the amount calculated in sub-paragraph (a) by 20 per cent. of the sum of the number of such securities which he would be obliged to deliver and the number he would be obliged to receive, if those options were all exercised;
- (c) where at the time of calculation such options would expire, unless previously exercised, within a period of four weeks, making the calculation specified in paragraph (1)(a) of this regulation in respect of those options for the relevant expiry month instead of the calculations referred to in sub-paragraphs (a) and (b) of this paragraph;
- (d) where the amount calculated by reference to sub-paragraphs (a) and (b) or the amount calculated by reference to sub-paragraph (c) is a negative amount, treating that amount as zero; and
- (e) aggregating the amounts so calculated in respect of all relevant expiry months and designated accounts.

Irvine Patnick

Gregory Knight
Two of the Lords Commissioners of Her
Majesty's Treasury

9th March 1992

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 22nd March 1992, are made under section 732(2A) of the Income and Corporation Taxes Act 1988 (“section 732(2A)”), inserted by section 56 of the Finance Act 1991. Section 732(2A) confers an additional exemption from the bond washing provisions of the 1988 Act. Bond washing is a device for turning income into capital by selling shares cum dividend. Sections 731 to 735 of the 1988 Act penalise the purchasers of such shares. Section 732(1) penalises purchasers who are securities dealers, and section 732(2) confers an exemption on securities dealers who are Stock Exchange market makers. Section 732(2A) permits the Treasury by regulations to prescribe the persons who will additionally be exempt from section 732(1) and the circumstances in which the exemption will apply. The subsection was inserted in the 1988 Act following the proposal to merge the London International Financial Futures Exchange and the London Traded Options Market of the London Stock Exchange to form the London International Financial Futures and Options Exchange (“LIFFE”). The date of coming into force of these Regulations coincides with the completion of the merger between the two Exchanges.

Regulation 1 provides for citation and commencement and regulation 2 for interpretation.

Regulation 3 prescribes for the purposes of section 732(2A) the persons who will be exempt from section 732(1) and the date from which the exemption runs.

Regulation 4 prescribes for the purposes of section 732(2A) the circumstances in which section 732(1) shall not apply.

Regulation 5 defines the expressions “the Max limit” and “the Deltaplus limit” for the purpose of regulation 4.