
STATUTORY INSTRUMENTS

1994 No. 3233

INCOME TAX

**The Currency Contracts and Options
(Amendment of Enactments) Order 1994**

Made - - - - 15th December 1994
Laid before the House of
Commons - - - - 16th December 1994
Coming into force - - 23rd March 1995

The Treasury, in exercise of the powers conferred on them by section 177(6) of the Finance Act 1994⁽¹⁾, hereby make the following Order:

1.—(1) This Order may be cited as the Currency Contracts and Options (Amendment of Enactments) Order 1994.

(2) This Order shall come into force on 23rd March 1995.

2. In section 150 of the Finance Act 1994 after subsection (10) there shall be added—

“(11) Subsection (12) below applies where—

- (a) under a contract or as a result of the exercise of an option, a qualifying company becomes entitled to a right and subject to a duty to receive or make a payment at a specified time or at the time when the option is exercised, and
- (b) the amount of the payment (in whatever currency) is computed in such a way as to be equal to the amount of the payment referred to in subsection (9) above which would have fallen to be computed if—
 - (i) the qualifying company had been entitled and subject as mentioned in subsection (2) or (7) above, and
 - (ii) a payment such as is referred to in subsection (9) were to be made to or by the qualifying company.

(12) For the purposes of this Chapter—

- (a) the qualifying company shall be deemed to have become entitled and subject as mentioned in subsection (2) above under the contract referred to in subsection (11) above or, as the case may be, shall be deemed to have become entitled and subject

as mentioned in subsection (7) above as a result of the exercise of the option referred to in subsection (11);

- (b) the payment made under the contract or as a result of the exercise of the option shall be treated as if it were a payment falling within subsection (9) above in the exercise and discharge of the rights and duties to which the qualifying company is deemed to have become entitled and subject by virtue of paragraph (a) above.”.

3. In section 126 of the Finance Act 1993⁽²⁾ after subsection (5) there shall be added—

“(6) Subsection (7) below applies where—

- (a) under a contract a qualifying company becomes entitled to a right and subject to a duty to receive or make a payment at a specified time, and
- (b) the amount of the payment (in whatever currency) is computed in such a way as to be equal to the amount of the payment referred to in subsection (1A) above which would have fallen to be computed if—
 - (i) the qualifying company had been entitled and subject as mentioned in subsection (1) above, and
 - (ii) a payment such as is referred to in subsection (1A) above were to be made to or by the qualifying company.

(7) For the purposes of this Chapter—

- (a) the qualifying company shall be deemed to have become entitled and subject as mentioned in subsection (1) above under the contract referred to in subsection (6) above;
- (b) the payment made under the contract shall be treated as if it were a payment falling within subsection (1A) above in the exercise and discharge of the rights and duties to which the qualifying company is deemed to have become entitled and subject by virtue of paragraph (a) above.”.

*Derek Conway
Andrew Mitchell*

Two of the Lords Commissioners of Her Majesty’s Treasury

15th December 1994

(2) 1993 c. 34. Section 126 was amended by section 115(1) of the Finance Act 1994.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 126 of the Finance Act 1993 (“section 126”) and section 150 of the Finance Act 1994 (“section 150”) define what is meant by a currency contract for the purposes of the provisions of those Acts relating to the tax treatment of exchange gains and losses and currency contracts. Section 150 also defines what is meant by a currency option. The essential feature of the definitions is a right and a duty on the part of a company to receive payment of a specified amount of one currency in exchange for payment of a specified amount of another currency.

This Order amends section 126 and section 150 so as to extend the definitions of currency contract and currency option to cover cases where, under a contract or as the result of the exercise of an option, a company has a right and a duty to receive or make a single payment consisting of the difference in value of the two currencies in question, but there is no right and duty to effect an actual exchange of those currencies.